

IN THE MATTER OF
FORM MAID COAT COMPANY, INC., AND WALTER-LEWIS
& COMPANY, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 3237. Complaint, Oct. 8, 1937—Decision, Dec. 10, 1937

Where a corporation engaged in manufacture of women's cloth coats made from fabric containing little, if any, of the hair or wool of the camel, and the exclusive sales agent of said fabric and seller thereof to said first-named corporate coat manufacturer, respectively engaged in substantial competition with others likewise selling and distributing, in commerce among the States, women's coats, and with those engaged in thus selling cloth fabrics from which such garments are made—

Respectively supplied, and made use of, labels for attachment to garments made from fabric in question, depicting camel with palm trees and mountains or pyramids, and displaying, in large and readable type, statement "Genuine Camel's Hair," and thereby represented to retailers and purchasing public that garments made, as above set forth, from aforesaid fabric and with aforesaid labels thus supplied and attached thereto, were composed in whole or in substantial part from the hair or wool of the camel;

With effect of misleading and deceiving dealers and substantial portion of purchasing public into erroneous belief that coats in question, made from aforesaid fabric and labeled as above described, were made in whole or in substantial part from such hair or wool, and with the result, as a consequence of such erroneous and mistaken belief thus engendered, that some dealers and members of purchasing public bought said garments as and for camel's hair or wool, preferred by many retailers and members of purchasing public as more desirable than those of other materials and as lighter, warmer and more desirable than other similar products not thus made in whole or substantial part, and trade was thereby unfairly diverted, in commerce in question, to them from their competitors who do not misrepresent the nature, character or quality of the materials from which their garments are made, and of placing in hands of unscrupulous retailers means whereby latter may commit fraud upon members of purchasing public by representing thereto that such garments are made in whole or substantial part from the hair or wool of the camel; to the substantial injury of competition in commerce:

Held, That such acts, practices and representations were all to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. Wm. T. Chantland for the Commission.

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the

Federal Trade Commission, having reason to believe that Form Maid Coat Company, Inc. and Walter-Lewis & Co., Inc., corporations, hereinafter referred to as respondents, have been and now are using unfair methods of competition in commerce as "commerce" is defined by said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Form Maid Coat Company, Inc. is a New York corporation with its office and principal place of business located at 545 Eighth Avenue in New York City, N. Y. It is engaged in manufacturing, selling and distributing women's cloth coats.

Respondent Walter-Lewis & Co., Inc. is a New York corporation with its office and principal place of business located at 450 Seventh Avenue in New York City, N. Y. The said respondent is now, and for more than one year last past has been, the exclusive sales agent for certain fabrics manufactured by Blackinton Company, Inc. These fabrics are used in the manufacture of women's cloth coats. Included in such fabrics made by Blackinton Company, Inc. and sold and distributed by its sales agent, respondent Walter-Lewis & Co., Inc., to respondent Form Maid Coat Company, Inc., to be used by it in manufacturing women's cloth coats, is one fabric known as Style No. 5036 (with various subnumbers to represent different shades).

PAR. 2. In the course and conduct of their respective businesses, the respondents herein, Walter-Lewis & Co., Inc. and Form Maid Coat Company, with the aid, assistance and cooperation of respondent Walter-Lewis & Co., Inc., caused, and now cause, said cloth fabric and said women's coats made therefrom, and labelled as hereinafter described, when sold, to be transported from their respective places of business in the State of New York to the purchasers thereof located at various points in the States of the United States other than the State of New York. The respondents maintained a constant current of trade in commerce in said cloth fabrics and women's coats made therefrom between and among the various States of the United States.

PAR. 3. In the course and conduct of their respective businesses the respondents are now, and they have been for more than one year last past, engaged in substantial competition with other corporations and with firms and individuals likewise engaged in the business of selling and distributing women's coats and cloth fabrics from which said coats are manufactured in commerce among and between the various States of the United States.

PAR. 4. In the course and conduct of their businesses and for the purpose of inducing the purchase of said garments by retailers and by members of the purchasing public, the respondents have entered into and subsequently carried out, and are now carrying out, a common understanding, agreement and conspiracy with the intent and for the purpose and with the effect of misleading and deceiving retail dealers and members of the purchasing public.

Such agreement, combination, understanding and conspiracy has been, and is now being, carried out in part in the following manner. The respondent Walter-Lewis & Co., Inc., in selling cloth fabric to the respondent Form Maid Coat Company, Inc., also furnishes said respondent Form Maid Coat Company, Inc., with a supply of labels to be attached to the garments made by it from said cloth fabric. These labels depict a camel together with palm trees and mountains or pyramids within a diamond shaped border. The labels also bear in large and readable type the statement, "Genuine Camel's Hair." Such labels so furnished by respondent Walter-Lewis & Co., Inc., are attached to the coats made by the respondent Form Maid Coat Company, Inc., from the cloth fabric purchased from respondent Walter-Lewis & Co., Inc.

PAR. 5. The use of such hereinabove described labels and the statements contained thereon serve as representations, on the part of both respondents, that the garments so manufactured by respondent Form Maid Coat Company, Inc., from fabrics procured from respondent Walter-Lewis & Co., Inc., and so labelled were in fact composed in whole, or in substantial part, from hair or wool obtained from camels.

In truth and in fact the representations so made are deceptive, exaggerated, false and untrue. The garments made from the fabric above referred to and labelled in the manner above referred to contain only a negligible amount of camel's hair if any at all. The principal constituent parts of the fabric from which said garments are made consists of rayon, wool and cotton warp. The amount of camel's hair or camel's wool contained in the fabric from which said garments are made is negligible, if there is any such wool present at all.

PAR. 6. Garments made from camel's hair or wool are generally believed, by many retail dealers and members of the general purchasing public, to be more desirable than garments made from any other material. Garments made from genuine camel's hair or wool are light in weight and are warm and possess other qualities which make them more desirable than other similar garments not made from camel's wool. Consequently, there is a preference on the part of

the purchasing public for purchasing garments that are in truth and in fact made up of camel's hair or wool.

PAR. 7. The aforesaid acts and practices of the respondents have the tendency and capacity to, and do, mislead and deceive dealers and a substantial portion of the purchasing public into the erroneous and mistaken belief that said coats so manufactured by the respondent Form Maid Coat Company, Inc., and bearing the labels furnished by the respondent Walter-Lewis & Co., Inc., with the fabric from which said coats are made, are in fact made in whole or substantial part from camel's hair. As a result thereof, such dealers and members of the purchasing public purchase said garments on account of the mistaken and erroneous beliefs induced as aforesaid, and thereby trade is unfairly diverted to the respondents from their competitors who do not similarly misrepresent the nature, character, or quality of the materials from which their garments are made.

The aforesaid acts and practices of respondents place in the hands of unscrupulous retail dealers a means whereby said dealers may commit a fraud upon members of the purchasing public by representing that said garments are made in whole or in substantial part from camel's hair.

The aforesaid acts and practices on the part of the respondents therefore cause a substantial injury to competition in commerce among and between the various States of the United States.

PAR. 8. The above and foregoing acts, practices, and representations of the respondents have been, and are, all to the prejudice of the public and respondents' competitors as aforesaid, and have been, and are, unfair methods of competition within the meaning and intent of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, on October 8, 1937, issued, and on October 9, 1937, served, its complaint in this proceeding upon respondents Form Maid Coat Company, Inc., and Walter-Lewis & Co., Inc., charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance and service of said complaint, respondent Form Maid Coat Company, Inc., filed its answer admitting all the material allegations

of the complaint to be true, and respondent Walter-Lewis & Co., Inc., entered into a stipulation as to the facts in lieu of evidence, which was received, accepted and approved by the Commission, and each respondent waived hearings on the charges set forth in the complaint and consented that, without further evidence, or other intervening procedure, the Commission may make its findings as to the facts, and order disposing of the case. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer, and stipulation as to the facts, no briefs having been filed or oral argument having been made, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent Form Maid Coat Company, Inc., is a New York corporation with its office and principal place of business located at 545 Eighth Avenue in New York, N. Y., and is engaged in manufacturing, selling and distributing women's cloth coats.

Respondent Walter-Lewis & Co., Inc., is a New York corporation with its office and principal place of business located at 450 Seventh Avenue in New York, N. Y., and is now, and for more than one year last past has been, the exclusive sales agent for certain fabrics manufactured by Blackinton Company, Inc., and that said fabrics are used in the manufacture of women's cloth coats. That included in such fabrics made by Blackinton Company, Inc., and sold, distributed and shipped in interstate commerce by its sales agent, respondent Walter-Lewis & Co., Inc., to respondent Form Maid Coat Company, Inc., to be used by it in manufacturing women's cloth coats, is one fabric known as Style No. 5036 (with various sub-numbers to represent different shades).

PAR. 2. In the course and conduct of its business, the respondent Form Maid Coat Company, Inc., with the aid, assistance and cooperation of respondent Walter-Lewis & Co., Inc., caused, and now causes, said cloth fabric and said women's coats made therefrom, and labeled with labels furnished by respondent Walter-Lewis & Co., Inc., as hereinafter described, when sold, to be transported from its place of business in the State of New York to the purchasers thereof located at various points in the States of the United States other than the State of New York. Respondent Walter-Lewis & Co., Inc., in the course and conduct of its business of selling cloth fabrics from which coats are made, is now, and has been for more than one year last past, engaged in substantial competition with other corporations, and with

firms and individuals engaged in the business of selling and distributing in commerce among and between the various States of the United States, cloth fabrics from which coats are manufactured. The respondents maintained a constant current of trade in commerce in said cloth fabrics and women's coats made therefrom between and among the various States of the United States.

PAR. 3. In the course and conduct of its business, the respondent Form Maid Coat Company, Inc., is now, and has been for more than one year last past, engaged in substantial competition with other corporations and with firms and individuals likewise engaged in the business of selling and distributing women's coats in commerce among and between the various States of the United States.

PAR. 4. In the course and conduct of their businesses and for the purpose of inducing the purchase of said garments by retailers and by members of the purchasing public, respondent Walter-Lewis & Co., Inc., in selling cloth fabric to the respondent Form Maid Coat Company, Inc., also furnished it with a supply of labels to be attached to the garments made by it from said cloth fabric, which labels depict a camel together with palm trees and mountains or pyramids within a diamond shaped border, and said labels also bear in large and readable type the statement "Genuine Camel's Hair," and such labels so furnished by respondent Walter-Lewis & Co., Inc., were intended to be and were attached to the coats made by the respondent Form Maid Coat Company, Inc., from the cloth fabric purchased from respondent Walter-Lewis & Co., Inc.

PAR. 5. By the means and in the manner aforesaid, the respondents represent to retailers and to the purchasing public that the garments manufactured by the respondent Form Maid Coat Company, Inc., from fabrics purchased from the respondent Walter-Lewis & Co., Inc., and bearing labels furnished by the respondent Walter-Lewis & Co., Inc., were composed in whole, or in substantial part, from hair or wool obtained from camels. Garments made in whole, or in substantial part, from camel's hair or wool are generally believed by many retail dealers and members of the purchasing public to be more desirable than garments made from other materials, as they are light in weight, are warm, and possess other qualities which make them more desirable than other similar garments not made in whole, or in substantial part, from camel's hair or wool, and there is a preference on the part of the purchasing public for garments made wholly, or in substantial part, from camel's hair or wool.

PAR. 6. The representations so made and used by the respondents are deceptive, exaggerated and untrue, in that the fabrics, and the garments made from the fabrics above referred to and labeled in the

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manner above described, are not composed in whole, or in substantial part, of camel's hair or wool but, in fact, contain only a negligible amount of camel's hair or wool, and the principal constituent parts of the fabric from which said garments are made consists of rayon, wool, and cotton warp.

PAR. 7. The aforesaid acts and practices of the respondents have the tendency and capacity to, and do, mislead and deceive dealers and a substantial portion of the purchasing public into the erroneous and mistaken belief that said coats so manufactured by the respondent Form Maid Coat Company, Inc., from the fabric purchased from, and bearing labels furnished by the respondent Walter-Lewis & Co., Inc., are made in whole, or in substantial part, from camel's hair or wool; as a result of the erroneous and mistaken belief engendered by the acts and practices of respondents, as aforesaid, some dealers and members of the purchasing public purchased said garments and thereby trade was unfairly diverted in said commerce to the respondents from their competitors who do not misrepresent the nature, character, or quality of the materials from which their garments are made, and the aforesaid acts and practices of the respondents place in the hands of unscrupulous retail dealers a means whereby said retail dealers may commit a fraud upon members of the purchasing public by representing to the purchasing public that said garments are made in whole, or in substantial part, from camel's hair or wool, to the substantial injury of competition in commerce between and among the various States of the United States, and to the injury of the public.

CONCLUSION

The above and foregoing acts, practices and representations of the respondents have been, and are, all to the prejudice of the public and respondents' competitors, as aforesaid, and have been, and are, unfair methods of competition within the meaning and intent of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, and on the answer of the respondent Form Maid Coat Company, Inc., filed November 3, 1937, admitting all of the material allegations of the complaint to be true, and waiving hearing on the charges set forth in the complaint and all other intervening procedure, and on the stipulation as to the

facts executed by the respondent Walter-Lewis & Co., Inc., duly approved by the Commission, wherein it waives the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

It is ordered, That the respondents Form Maid Coat Company, Inc., and Walter-Lewis & Co., Inc., their officers, representatives, agents and employees, in connection with the offering for sale, sale, and distribution in interstate commerce of coats and other garments, or fabrics from which coats or other garments are to be made, do forthwith cease and desist from:

1. Representing, directly or indirectly, that the coats or the fabrics from which coats are made, or are to be made, contain camel's hair or wool, unless such coats or the fabrics do, in fact, contain a substantial quantity of camel's hair or wool, and unless, where such fabric is made from camel's hair or wool and other materials, such other materials contained in said fabric are aptly and truthfully described in equally conspicuous words in connection and in conjunction with the word or words used in describing the camel's hair or wool content of said fabric.

2. Using labels, or furnishing the same for use by others, containing the words "Genuine Camel's Hair," or any word or words of similar import and meaning, to designate and describe coats or textile fabrics which are not composed wholly of the hair or wool of the camel.

It is further ordered, That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
C. W. BEGGS SONS & COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 2687. Complaint, Jan. 18, 1936—Decision, Dec. 13, 1937

Where a corporation engaged in sale of its "Marcelle" line of cosmetics, and in distribution thereof in commerce among the various States, through stores, department stores, and other media, in substantial competition with those engaged in similar sale of preparations recommended or used for treatment or relief of allergy, hypersensitiveness, and kindred diseases or conditions, and also with those engaged in sale of cosmetics in commerce among the various States and in the District of Columbia; in extensively advertising its aforesaid assertedly nonallergic line of cosmetics in various periodicals in interstate circulation and through radio broadcast of interstate transmission and reception, and through booklets and circulars—

Represented that its said "Non-Allergic" cosmetics and formulas therefor had been accepted or approved by the American Medical Association, or had passed rigorous requirements of that organization with regard to ingredients, claims and purity, and that said association, after finding, on investigation, said line "100% pure," "passed an approval note on to every physician in the United States advising them" that said cosmetics were "pure in every sense of the word," facts being that, while its said cosmetic advertisements were accepted for publication by the Journal American Medical Association, said association had no councils for accepting or approving cosmetics and had never accepted or approved any cosmetics from it or anyone else, nor had it declared its products 100% pure or sent approval notices to such effect, as above claimed;

With capacity and tendency to mislead and deceive public into the erroneous and mistaken belief that its said products had in truth and in fact been accepted or approved by said association, and to induce purchasing public to buy its said products in preference to other cosmetics and other preparations compounded and used for avoidance or relief of allergy and kindred diseases or conditions, and with effect of unfairly diverting trade to it, by reason of such deceptive and misleading representations, from competitors above named and cosmetic manufacturers, dealers, and distributors who do not misrepresent the character and quality of their respective products or the results to be obtained from the use thereof:

Held, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. John W. Addison*, *Mr. Robert S. Hall* and *Mr. John J. Keenan*, trial examiners.

Mr. T. H. Kennedy for the Commission.

Matthews, Harmon, Karr & Springer, of Chicago, Ill., for respondent.